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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**

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18 ELENA M. DAVID,
19 Plaintiff,
20 v.
21 J. STEELE ALPHIN, *ET AL.*,
22 Defendants.
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24 Case No. 06-cv-04763 WHA
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Declaration of Matthew D. Powers in
Support of Motion for Transfer of Venue
by Defendant Bank of America
Corporation

Hearing Date: January 4, 2007
Time: 8:00 a.m.
Place: Courtroom 9, 19th Floor
Judge: Honorable William Alsup

1 I, Matthew D. Powers, state and declare as follows:

2 1. This Declaration is submitted in support of the Motion for Transfer of
3 Venue pursuant to 28 U.S.C. § 1404(a) filed by defendant Bank of America Corporation
4 ("Bank of America").

5 2. I am an attorney at O'Melveny & Myers LLP, counsel for Bank of
6 America in the above-styled matter. I have personal knowledge of the following and, if
7 called to do so, could testify competently thereto.

8 3. Attached hereto as Exhibit A is a true and correct copy of the
9 preliminary¹ transcript of the November 28, 2006, deposition of Elena M. David.

10 4. Attached hereto as Exhibit B is a true and correct copy of the
11 transcript of the November 9, 2006, initial case management conference in this matter.

12 5. Attached hereto as Exhibit C is a true and correct copy of a letter
13 provided by plaintiff's counsel to O'Melveny & Myers by e-mail on November 29, 2006.
14 Exhibit C is purportedly the letter from William G. Bertain to the plaintiff referenced at
15 page eight, lines seven through seventeen of Elena M. David's deposition.

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17 Executed this 30th day of November, 2006, at San Francisco, California.

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Matthew D. Powers

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28 ¹ The time to file an errata sheet pursuant to Fed. R. Civ. P. 30(e) has not yet expired.